

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/2007 has been entered.

***Response to Amendment***

2. The amendment dated 9/28/2007 has been fully considered and entered into the Record. Claims 1-13, 17-20, 22, 23, 26 and 29 have been canceled. Claims 14-16, 21, 24, 25, 27 and 28 are currently active. Claims 14 and 27 have been amended and contain no new matter. The previous anticipatory rejection made in view of Warlick et al. has been withdrawn as the applied reference failed to explicitly disclose fibers of not greater than 4.5 micrograms per inch of fiber thickness.

***Claim Rejections - 35 USC § 102/103***

3. Claims 14-16, 21, 24, 25, 27 and 28 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Warlick et al. (US 2003/0127342).

a. Warlick et al. teach a nonwoven fabric comprising hydrodynamically entangled short staple "cotton fibers" (Abstract). The term "cotton fibers" is intended to mean pure cotton fibers of less than  $1\frac{1}{8}$ " [0006]. The non-integrated batt of cotton fibers may vary between  $\frac{1}{8}$ " and 5" in thickness [0018]. Following hydroentangling the batt will be compressed from its non-integrated state. This results in a final product of the claimed

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thickness. The batts have a basis weight between  $50\text{g/m}^2$  and  $200\text{g/m}^2$  [0027]. This will not change following hydroentanglement. Claims 24 and 25 are rejected as the applied art teaches the use of cotton staple fibers and in Applicant's specification it is taught to meet the instant limitations in [0041]. Claim 26 is rejected as the article of Warlick et al. calls for hydroentanglement (Abstract). This is same process (Applicant's claim 14) used by Applicant to create the structure of claims 14 and 27. The invention of Warlick et al. is a nonwoven fabric of entangled pure cotton fibers to form a binderless integrated web [0005].

b. Although Warlick et al. do not explicitly teach the claimed feature of fibers having not greater than 4.5 micrograms per inch of fiber thickness, it is reasonable to presume that said property is inherent to Warlick et al. Support for said presumption is found in the use of like materials (i.e. waste cotton fibers that are unsuitable for spinning into a usable yarn [0006]). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of fibers having not greater than 4.5 micrograms per inch of fiber thickness would obviously have been present one the Warlick et al. product is provided.

### ***Response to Arguments***

4. Applicant's arguments filed 9/28/2007 have been fully considered but they are not persuasive.

5. Applicant argues that Warlick et al. fail to teach or suggest fibers having not greater than 4.5 micrograms per inch of fiber thickness. Examiner agrees that Warlick et al. fails to explicitly disclose fibers of not greater than 4.5 micrograms per inch of fiber thickness. However, it is

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reasonable to presume that said property is inherent to Warlick et al. Support for said presumption is found in the use of like materials (i.e. waste cotton fibers that are unsuitable for spinning into a usable yarn [0006]). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of fibers having not greater than 4.5 micrograms per inch of fiber thickness would obviously have been present one the Warlick et al. product is provided.

6. Applicant argues that the fibers of the claimed product are a by-product of a cotton fiber spinning process and that the fibers of Warlick et al. are not produced in the same manner and, therefore, do not necessarily exhibit the same properties as the fibers of the claimed invention. Therefore, the fibers of the claimed invention are unsuitable for spinning into a usable yarn. As set forth *supra*, the fibers of Warlick et al. are in fact waste fibers and are unsuitable for spinning into a usable yarn [0006].

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is 571.272.2423. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571.272.1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Examiner, Art Unit 1794

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